

22 NOV 1957
INDIA

The Gazette of India



EXTRAORDINARY
PART II—Section 2
PUBLISHED BY AUTHORITY

No. 39] NEW DELHI, MONDAY, NOVEMBER 18, 1957/KARTIKA 27, 1879

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 18th November, 1957:—

Bill No. IX of 1957

A Bill further to amend the Indian Telegraph Act, 1885

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

13 of 1885. 1. (1) This Act may be called the Indian Telegraph (Amendment) Act, 1957. Short title and commen-
cement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 7 of the Indian Telegraph Act, 1885 (hereinafter referred to as the principal Act),— Amendment
of section 7.

(a) in sub-section (2), after clause (d), the following clauses shall be inserted, namely:—

“(e) the conditions and restrictions subject to which any telegraph line, appliance or apparatus for telegraphic communication shall be established, maintained, worked, repaired, transferred, shifted, withdrawn or disconnected;

(f) the charges in respect of—

(i) the establishment, maintenance, working, repair, transfer or shifting of any telegraph line, appliance or apparatus;

(ii) the services of operators operating such line, appliance or apparatus;

(g) the matters in connection with the transition from a system whereunder rights and obligations relating to the

establishment, maintenance, working, repair, transfer or shifting of any telegraph line, appliance or apparatus for telegraphic communication attach by virtue of any agreement to a system whereunder such rights and obligations attach by virtue of rules made under this section;

(h) the time at which, the manner in which, the conditions under which and the persons by whom the rates, charges and fees mentioned in this sub-section shall be paid and the furnishing of security for the payment of such rates, charges and fees;

(i) the payment of compensation to the Central Government for any loss incurred in connection with the provision of any telegraph line, appliance or apparatus for the benefit of any person—

(a) where the line, appliance or apparatus is, after it has been connected for use, given up by that person before the expiration of the period fixed by these rules, or

(b) where the work done for the purpose of providing the line, appliance or apparatus is, before it is connected for use, rendered abortive by some act or omission on the part of that person;

(j) the principles according to which and the authority by whom the compensation referred to in clause (i) shall be assessed;

(k) any other matter for which provision is necessary for the proper and efficient conduct of all or any telegraphs under this Act.”; and

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Nothing in this section or in any rules made hereunder shall be construed as—

(a) precluding the Central Government from entering into an agreement with a person for the establishment, maintenance and working by that Government on terms and conditions specified in the agreement, of any telegraph line, appliance or apparatus for the purpose of affording means of telegraphic communication, where having regard to the number of the lines, appliance or

apparatus required by that person for telegraphic communication, it is necessary or expedient to enter into such agreement with him, or

(b) subjecting the Central Government to any obligation to provide any telegraph line, appliance or apparatus for the purpose of affording means of telegraphic communication.

(5) All rules made under this section shall be laid for not less than thirty days before each House of Parliament, as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”.

3. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
7A and 7B.

“7A. Nothing in section 7 shall authorise the making of any rules determining any agreement entered into by the Central Government with any person before the commencement of the Indian Telegraph (Amendment) Act, 1957, relating to the establishment, maintenance or working of any telegraph line, appliance or apparatus for telegraphic communication; and all rights and obligations thereunder relating to such establishment, maintenance or working shall be determined in accordance with the terms and conditions of such agreement.

Saving of
existing
agreements.

“7B. (1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section.

Arbitration
of disputes.

(2) The award of the arbitrator appointed under sub-section (1) shall be conclusive between the parties to the dispute and shall not be questioned in any court.”.

STATEMENT OF OBJECTS AND REASONS

Under section 4 of the Indian Telegraph Act, 1885, the Central Government has the exclusive privilege of establishing, maintaining and working telegraphs throughout India. Since the term "telegraphs" includes telephones, the use of telephones is regulated by this Act and Part V of the Indian Telegraph Rules, 1951, made under section 7 of the Act.

But the matters specified in sub-section (2) of section 7 relating to which rules may be made under that section pertain mostly to rates, transmission and custody of telegrams and fees for searching the same and the sub-section does not expressly refer to the terms and conditions under which telephone connections may be given, transferred, shifted, withdrawn or disconnected. These terms and conditions are at present regulated by individual hiring contracts which are executed by the President and the subscribers. With the growing number of telephones it is necessary to do away with individual hiring contracts and to replace them by statutory rules. For this purpose it is necessary to amend section 7 of the Indian Telegraph Act, 1885, providing specifically that rules may be made under that section for regulating such terms and conditions. A specific provision in the Telegraph Act is, however, considered necessary for the saving of existing hiring contracts, as it would be undesirable to render these existing contracts null and void. A provision as to arbitration is also considered necessary for the settlement of disputes that may arise between the telegraph authority and the telephone subscribers after the system of individual hiring contracts is replaced by the system of statutory rules.

The present Bill is designed to achieve the objects mentioned above.

LAL BAHADUR.

NEW DELHI;

The 5th November, 1957.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to amend section 7 of the Indian Telegraph Act, 1885, by inserting *inter alia* new clauses (e) to (k) in sub-section (2) of that section. The matters contained in these new clauses for which rules may be made relate to the installation, connection, use and disconnection of telephones. Detailed provisions in relation to these matters are necessary for the day-to-day administration of the telephone system in an efficient manner. It is, however, extremely difficult to include all the detailed provisions which may be necessary in this behalf in the Act itself; they can best be made by rules, which will be laid before both Houses of Parliament after being made. The delegation of legislative power is of a normal type in the context of the present Bill.

S. N. MUKERJEE,
Secretary.

